

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

DALE BORING,

Plaintiff,

v.

MARTIN O'MALLEY, Commissioner of
Social Security, **UNITED STATES SOCIAL
SECURITY ADMINISTRATION, GAIL
ENNIS, DONALD JEFFERSON,
MICHELLE MURRAY, AURELIA
MOORE**

Defendants.

Case No. 3:23-cv-1611-YY

ORDER

Michael H. Simon, District Judge.

Plaintiff, representing himself, has sued the Commissioner of the Social Security Administration in his official capacity, the U.S. Social Security Administration, and four employees of the Social Security Administration in their official and personal capacities. After issuing an Order to Show Cause why the case should not be dismissed for lack of proper service, U.S. Magistrate Judge Youlee Yim You issued a Findings and Recommendation recommending that this Court dismiss the case without prejudice for failure to comply with Rule 4(m) of the Federal Rules of Civil Procedure.

Under the Federal Magistrates Act, a district court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3). Plaintiff objected, arguing that he had attempted to cure the deficiencies in service and requesting that he be given another opportunity to do so if his service attempts continued to be lacking. The Court extended the time for service under Rule 4(m) until June 3, 2024, allowed Plaintiff additional time to cure the deficiencies identified by Judge You, and deferred ruling on the Findings and Recommendation. ECF 20.

On May 31 and June 1, 2024, Plaintiff filed additional Certificates of Services. ECF 21, 22. These Certificates of Service show that a nonparty to this action sent the complaint and summonses through Certified Mail to the United States Attorney General, the Oregon United States Attorney’s office in Portland, Oregon, the Social Security Administration in Maryland, and the individual defendants. This is sufficient to cure the deficiencies identified by Judge You in her Order dated December 6, 2023 (ECF 12), and reiterated on February 27, 2024 (ECF 14).

Because Plaintiff has cured the deficiencies in service identified by Judge You within the extended time for service allowed by the Court, the Court declines to adopt the Findings and Recommendation (ECF 16).

IT IS SO ORDERED.

DATED this 4th day of June, 2024.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge